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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/765,864

01/29/2004

Ernest R. Bodnar

1120W104

2633

3176

7590

09/07/2006

GEORGE A. ROLSTON  
45 SHEPPARD AVE EAST  
SUITE 900  
TORONTO, ON M2N5W9  
CANADA

EXAMINER

CHAPMAN, JEANETTE E

ART UNIT

PAPER NUMBER

3635

DATE MAILED: 09/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/765,864	BODNAR, ERNEST R.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Chapman E. Jeanette	3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 20 June 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 18-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 7-17 is/are rejected.
- 7) ☒ Claim(s) 3-6 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                             |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)         |
| Paper No(s)/Mail Date _____   | 6) <input checked="" type="checkbox"/> Other: <u>patent copy with annotations</u> . |

Claims 18-20 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected Group II, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 6/20/06.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2 and 7-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2: the semi-circular openings lack a positive antecedent basis in claims 1 and 2.

Claim 7: appears to be a depending claim but lacks the claim in which it is depending. Claims 8-17 depend on claim 7, it is therefore unclear as to what limitations are being grouped or addressed. The claims are being addressed as follows below.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2 and 7-17, as far as understood are rejected under 35 U.S.C. 103(a) as being unpatentable over Klemperer (1994716) in view of Frobosilo et al (5687538).

Klemperer discloses a steel stud comprising:

1. a web 12/14 defining two edges
2. first and second right angle flanges formed on the edges; see annotations on patent copy
3. First and second angular strip formed along the free edges of the flanges
4. web openings 16 of a non-triangular shape formed through the web between the first and second flanges
5. edges of the opening formed out of the plane of the web into generally right angular flanges; see column 2, lines 40-50
6. generally circular opening 17
7. The web between the web openings defines generally hourglass web portions which are narrower at about the mid point of the web and wherein the circular openings are directed towards the narrower portions of the hourglass shaped web portions. See figure 1.
8. Figure 4 shows a first triangular tube formation 47 formed on one said edge
9. a second triangular tube formation 47 formed on the other edge
10. web formations 43 of a generally non-triangular shape formed through the web between the first and second triangular tube formations 47

11. Edges of the openings 43 formed out of the plane of the web into  
generally right angular edge flanges

Klemperer lacks the circular depressions formed in the web between the web openings and the flanges and the openings formed within the depressions. Frobosilo et al discloses a depression 242 formed in the web and openings 240 formed in the depression to add strength to the stud. In view of the above, it would have been obvious to modify Klemperer to include the openings formed within the depressions to strengthen the structure of the stud especially around the openings as taught by Frobosilo et al.

***Allowable Subject Matter***

Claims 3-6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chapman E. Jeanette whose telephone number is 571-272-6841. The examiner can normally be reached on Mon.-thursday, 8:30-6:00, every fri. off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Naoko slack can be reached at 571-272-6845. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3635

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
JEANETTE CHAPMAN  
PRIMARY PATENT EXAMINER  
ART UNIT 3635

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March 19, 1935.

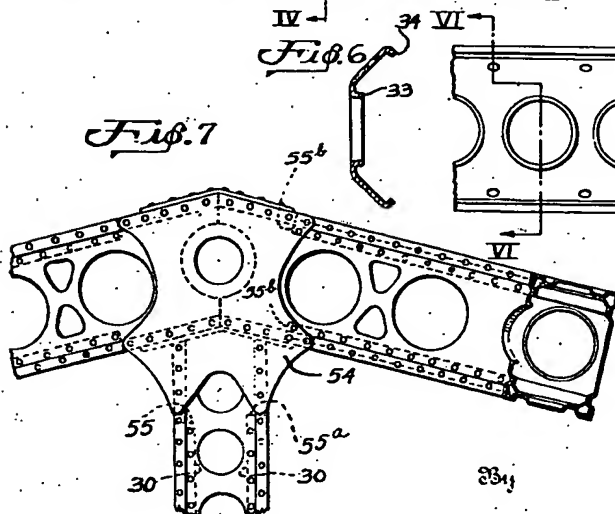
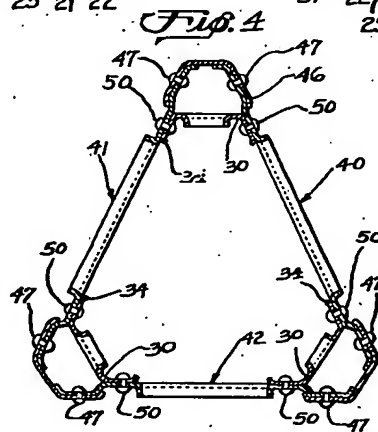
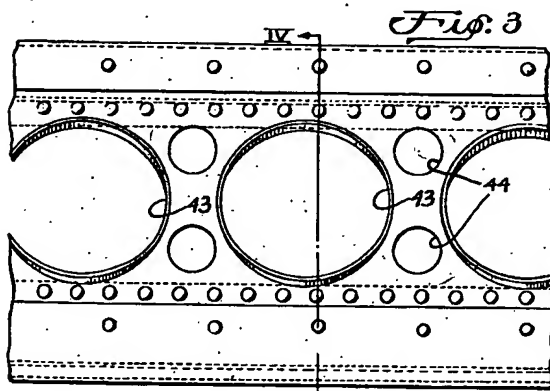
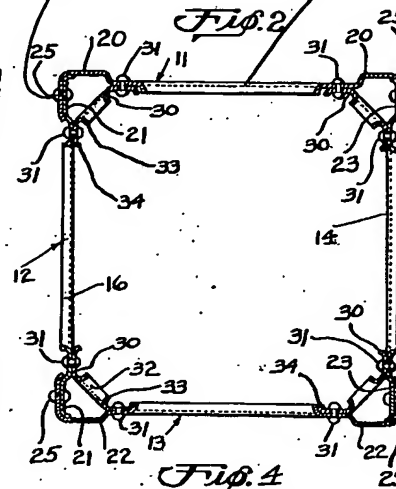
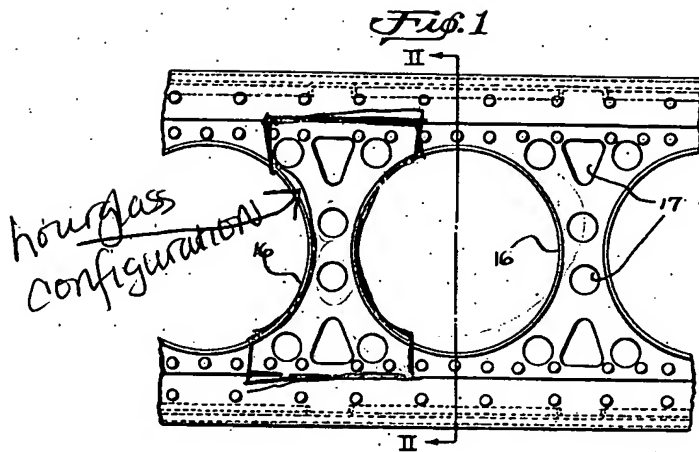
W. B. KLEMPERER

1,994,716

GIRDER

Filed May 12, 1932

*strips*  
*right angle flange*



Inventor  
Wolfgang B. Klemperer

*W. B. Klemperer*

Attorney

PATENT COPY W/ANNOTATIONS